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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,696	04/18/2005	Herbert Stotkiewicz	R.304065	1402

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EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT PAPER NUMBER

3753

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/531,696

Applicant(s)

STOTKIEWITZ ET AL.

Examiner

Ramesh Krishnamurthy

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10 - 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10 - 17, 24 and 27 - 29 is/are rejected.
- 7) ☒ Claim(s) 18 - 23, 25 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/18/2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Art Unit: 3753

This office action is responsive to communications filed 09/19/2005.

Claims 10 – 29 are pending.

1. The drawings are objected to because the passage opening (16) in the base plate is shown in figure 1 to extend through the diaphragm (13) whereas Fig. 3 does not show that feature. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3753

3. Claims 10, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 1,583,503.

The document GB '503 discloses an overpressure valve (Fig. 2) for a packaging container, having a base plate (6), which is connectable to one wall (1) of the packaging container and has at least one passage opening (7) and is partially covered by a diaphragm (3) that has at least one passage (page 2, lines 20 - 38), the diaphragm being joined in its peripheral regions (4, 4') at least partly to the base plate (6), so that upon an overpressure in the packaging container, a conduit is created from the at least one passage opening (7) in the base plate (6) to the at least one passage (in (3)), in order to conduct gas out of the packaging container through an opening (2) in the wall (1), the improvement wherein the overpressure valve is connected to a wall (1) that forms the inside of the packaging container; and wherein on the side of the base plate (6) oriented toward the inside, a connecting element (12) is disposed, the connecting element (12) having a closed contour, and the at least one passage in the diaphragm (3) being disposed inside the contour of the connecting element (12). The connecting element (12) is disclosed as being adhesively connected to the packaging (page 3, lines 41 - 48).

4. Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Walters (EP 0 870 697 A1).

Walters discloses an overpressure valve (Figs. 1 - 9) for a packaging container, having a base plate (52), which is connectable to one wall (24) of the packaging container and has at least one passage opening (78) and is partially covered by a

Art Unit: 3753

diaphragm (54) that has at least one passage (56) in the form of a slit, the diaphragm being joined in its peripheral regions (near (58)) at least partly to the base plate, so that upon an overpressure in the packaging container, a conduit is created from the at least one passage opening (78) in the base plate (52) to the at least one passage (56), in order to conduct gas out of the packaging container through an opening (88,90) in the wall (24), the improvement wherein the overpressure valve is connected to a wall (24) that forms the inside of the packaging container; and wherein on the side of the base plate (52) oriented toward the inside, a connecting element (50) is disposed, the connecting element (50) having a closed contour, and the at least one passage in the diaphragm (3) being disposed inside the contour of the connecting element (50).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 3753

7. Claims 12, 14, 16 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,583,503 and further in view of Domke (US 5,727,881).

The document GB '503 discloses the claimed invention with the exception of explicitly disclosing the passage opening in the base plate to have the form of two intersecting circles.

Domke '881 discloses an overpressure valve for a container that comprises a passage opening (15) in the base plate (11) to have the form of two intersecting circles for the purpose of keeping the opening pressure of the valve at a desired low value.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in GB '503 the passage opening in the base plate to have the form of two intersecting circles for the purpose of keeping the opening pressure of the valve at a desired low value, as recognized by Domke '881.

It is noted that Domke '881 discloses an arrangement wherein the base plate, diaphragm, and the connecting element (that is regarded as part of the base plate (11)) to have a rectangular outer contour in plan view. The applicant should note that a change in the shape of a prior art device is a design consideration that involves only routine skill in the art. In re Dailey, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

8. Claims 12 - 17 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,583,503 and further in view of Domke (US 5,727,881).

The document GB '503 discloses the claimed invention with the exception of explicitly disclosing the passage opening in the base plate to have the form of two intersecting circles.

Domke '881 discloses an overpressure valve for a container that comprises a passage opening (15) in the base plate (11) to have the form of two intersecting circles for the purpose of keeping the opening pressure of the valve at a desired low value.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in GB '503 the passage opening in the base plate to have the form of two intersecting circles for the purpose of keeping the opening pressure of the valve at a desired low value, as recognized by Domke '881.

It is noted that Domke '881 discloses an arrangement wherein the base plate, diaphragm, and the connecting element (that is regarded as part of the base plate (11)) to have a rectangular outer contour in plan view. The applicant should note that a change in the shape of a prior art device is a design consideration that involves only routine skill in the art. In re Dailey, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

9. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1,583,503 and further in view of Blaser (US 4,420,015).

The document GB '503 discloses the claimed invention with the exception of explicitly disclosing the connecting element to have a surface that is uneven or rippled to facilitate joining the connecting element to the container by ultra sonic welding.

Blaser teaches (Col. 3, lines 32 – 43) the use of ultra sonic welding in joining the over pressure valve to the container by providing on the part of the valve being joined to the container, with an uneven surface (by providing a rib (16) thereon) for the purpose of achieving an effective welded joint.

Art Unit: 3753

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in GB'503 a surface on the connecting element that is uneven or rippled to facilitate joining the connecting element to the container by ultra sonic welding, for the purpose of achieving an effective welded joint, as recognized by Blaser.

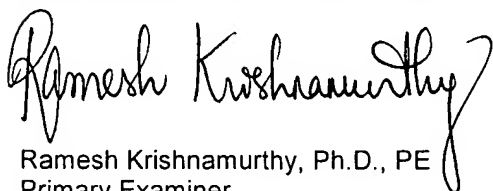
10. Claims 18 – 23, 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 – 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel, can be reached on (571) 272 – 4929. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramesh Krishnamurthy, Ph.D., PE
Primary Examiner
Art Unit 3753